

Remarks

Claims 1-10 are pending in the application. Claims 1-10 were subject to an election requirement. Claims 1, 2, and 5 are the independent claims. Examination on the merits of the amended application in view of the following remarks is respectfully requested.

The examiner stated that the application claims three different inventions, and required election of a single invention to which examination of the claims will be restricted. Applicant hereby elects the invention of Group I, as recited in claims 1, 3, and 4, drawn to a first method for controlling the fluid balance in an anode circuit of a fuel cell system. The election is made with traverse, and therefore the non-elected claims are not canceled.

The examiner asserted that the application claims three distinct inventions, namely,

- I. Claims 1, 3, and 4, drawn to a first method for controlling the fluid balance in an anode circuit of a fuel cell system.
- II. Claims 2, 8, and 9, drawn to a second method for controlling the fluid balance in an anode circuit of a fuel cell system.
- III. Claims 5-7 and 10, drawn to a fuel cell system.

The examiner asserted that the respective inventions do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features. In supporting this assertion, the examiner stated that the common subject matter of the three inventions is a fuel cell system having at least one condensing device. The examiner concluded that the common

subject matter does not make a contribution over the prior art as represented by US 5,141,823, and therefore lacks unity of invention.

However, the cited reference only discloses checking the fill amount of catchpot 54 using a level controller/valve 59 (see column 9, lines 22-28). Therefore, the action of determining a measured quantity characteristic of the amount of liquid and/or changes in the amount of liquid is not disclosed or suggested by this reference. This reference does not disclose or suggest that the level controller measures a quantity that is characteristic of the amount of liquid and/or changes in the amount of liquid in the fuel cell system. Further, controlling the level in the catchpot is related to the cathode circuit of the fuel cell. In contrast, according to the claimed invention, the amount of liquid in the anode circuit is the relevant quantity.

Thus, the cited reference does not disclose or suggest all of the features common to the claims of Inventions I, II, and III as identified above. Namely, the cited reference does not disclose or suggest the claimed feature of determining a measured quantity characteristic of the amount of liquid and/or changes in the amount of liquid. In view of this deficiency of the cited prior art, it is submitted that the common subject matter of the respective inventions makes a contribution over the prior art as represented by US 5,141,823, and therefore satisfies the unity of invention requirement.

In view of the foregoing, it is submitted that the restriction requirement should be withdrawn, and examination on the merits is requested.

Respectfully submitted,



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